

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. KAVANAGH, COLTON, COOK, JAFFEE -- Multi-Sponsored
by -- M. of A. GOTTFRIED, JOHN, MAYERSOHN, THIELE -- read once and
referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to elim-
inating certain discharges of chlorine compounds into state waters,
and for other purposes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Short title. This act may be cited as the "chlorine zero
2 discharge act".
3 S 2. Legislative intent. The legislature finds that:
4 1. toxic substances that persist or bioaccumulate in the environment,
5 build to higher and higher concentration over time, reaching their
6 greatest levels in the tissues of species high on the food chain,
7 including humans;
8 2. toxic substances that persist or bioaccumulate in the environment
9 are biologically active in infinitesimal quantities, causing reproduc-
10 tive failure, birth defects, developmental impairment, hormonal
11 disruption, behavioral disorders, immune suppression and cancer at low
12 doses, and mixtures of these substances may cause these effects at even
13 lower doses;
14 3. regulatory approaches that permit even limited production and
15 discharge of toxic substances that persist or bioaccumulate result in
16 the accumulation of these substances in the environment and food chain
17 over time and subsequent damage to the health of humans and other
18 species;
19 4. the most favored method of preventing the continued contamination
20 of the environment from persistent or bioaccumulative toxic substances
21 is to phase out their production or use over time and replace these

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 substances or the processes that produce them, or both, with safer
2 alternatives;

3 5. among the persistent or bioaccumulative toxic substances of great-
4 est concern are organochlorines discharged in the production of pulp and
5 paper as a result of the use of chlorine or any other chlorinated
6 oxidizing agents in the pulp and paper manufacturing process;

7 6. the Great Lakes Water Quality Agreement between the United States
8 and Canada concludes that the discharge of toxic substances in toxic
9 amounts be prohibited and the discharge of any or all persistent toxic
10 substances be virtually eliminated; and

11 7. in the Sixth Biennial Report on Great Lakes Water Quality, the
12 International Joint Commission on Great Lakes Water Quality concluded
13 that the concepts of virtual elimination and zero discharge are consist-
14 ent and a clear statement or direction to take to achieve the Agree-
15 ment's purpose. The overall strategy or aim regarding persistent toxic
16 substances is virtual elimination, and the tactic or method to be used
17 to achieve the aim is through zero input or discharge of those
18 substances created as a result of human activity.

19 S 3. The environmental conservation law is amended by adding a new
20 section 17-0830 to read as follows:

21 S 17-0830. DISCHARGE OF ORGANOCHLORINE COMPOUNDS, BYPRODUCTS, OR META-
22 BOLITES.

23 1. (A) EFFECTIVE FOUR YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION,
24 EACH PULP AND PAPER MANUFACTURING FACILITY SHALL ACHIEVE ZERO DISCHARGE
25 INTO WATER OF ORGANOCHLORINE COMPOUNDS, BYPRODUCTS OR METABOLITES FORMU-
26 LATED AS A RESULT OF THE USE OF CHLORINE OR ANY OTHER CHLORINATED
27 OXIDIZING AGENT IN THE PULP AND PAPER MANUFACTURING PROCESS.

28 (B) EFFECTIVE FOUR YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION, ALL
29 EXISTING AND NEW PERMITS UNDER THIS CHAPTER FOR PAPER AND PULP MILLS
30 WHICH USE CHLORINE OR ANY OTHER CHLORINATED OXIDIZING AGENT SHALL
31 REQUIRE COMPLIANCE WITH THE ZERO DISCHARGE REQUIREMENT SET FORTH IN
32 PARAGRAPH (A) OF THIS SUBDIVISION.

33 2. WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, THE
34 COMMISSIONER SHALL EVALUATE ALTERNATIVES TO THE USE OF ORGANOCHLORINES
35 IN THE MANUFACTURING OF PULP AND PAPER, AND SHALL PUBLISH A REPORT ON
36 THE TRANSFER OF TECHNOLOGY IN THE PULP AND PAPER INDUSTRY FROM ORGANO-
37 CHLORINE TO CHLORINE-FREE TECHNOLOGY AS A MODEL FOR POLLUTION
38 PREVENTION. WITHIN EIGHTEEN MONTHS AFTER THE EFFECTIVE DATE OF THIS
39 SECTION, THE DEPARTMENT SHALL BEGIN PROVIDING TECHNICAL INFORMATION AND
40 SUPPORT TO ASSIST PERMIT APPLICANTS IN THE USE OF ALTERNATIVES TO ORGA-
41 NOCHLORINE COMPOUNDS IN THE PRODUCTION OF PULP AND PAPER.

42 3. WITHIN EIGHTEEN MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION,
43 THE COMMISSIONER SHALL COMPLETE A REPORT TO THE GOVERNOR AND THE LEGIS-
44 LATURE ON NOT READILY IDENTIFIED SOURCES AND INDUSTRIAL DISCHARGES OF
45 ORGANOCHLORINE COMPOUNDS AND THEIR BYPRODUCTS AND METABOLITES INTO
46 WATER. THE REPORT SHALL INCLUDE A LISTING OF ALL TYPES OR CATEGORIES OF
47 NONPOINT SOURCES AND INDUSTRIAL ORGANOCHLORINE DISCHARGES INTO WATER AND
48 THEIR BYPRODUCTS AND METABOLITES. THE REPORT SHALL ALSO INCLUDE A LIST-
49 ING OF THE ANNUAL QUANTITIES OF EACH ORGANOCHLORINE COMPOUND DISCHARGED
50 INTO WATER STATEWIDE AND BY PERMITTED FACILITY, TOGETHER WITH A LIST OF
51 EACH PERMITTED FACILITY'S LOCATION AND QUANTITIES OF COMBINED ORGANO-
52 CHLORINE COMPOUND DISCHARGES INTO WATER. THE REPORT SHALL CONTAIN
53 RECOMMENDATIONS FOR ACHIEVING A ZERO DISCHARGE POLICY FOR IMPORTANT
54 CATEGORIES OF ORGANOCHLORINE POLLUTION SOURCES. IN ORDER TO DEVELOP SUCH
55 RECOMMENDATIONS, THE COMMISSIONER SHALL CONVENE AN ADVISORY PANEL. THE
56 ADVISORY PANEL SHALL CONDUCT PUBLIC HEARINGS AND SOLICIT PUBLIC AND

1 EXPERT COMMENT. THE PANEL SHALL CONSIST OF FIFTEEN MEMBERS, INCLUDING AT
2 LEAST ONE INDEPENDENT EXPERT IN EACH OF THE FIELDS OF PUBLIC HEALTH,
3 OCCUPATIONAL HEALTH, TECHNOLOGY CHANGE, TOXICS USE REDUCTION, AND ECOLO-
4 GY, TWO AFFECTED CITIZENS, AND TECHNICAL AND POLICY EXPERTS FROM INDUS-
5 TRY, LABOR, PUBLIC INTEREST AND ENVIRONMENTAL GROUPS. MEMBERS SHALL NOT
6 BE EMPLOYEES OF THE DEPARTMENT. MEMBERS SHALL NOT BE ENTITLED TO ANY
7 COMPENSATION BUT SHALL BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY
8 EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

9 4. FOR THE PURPOSES OF THIS SECTION, THE TERM "ZERO DISCHARGE" MEANS
10 ABSOLUTELY NO OUTPUT OR RELEASE, INCLUDING NONPOINT SOURCE OUTPUT OR
11 RELEASE, INTO WATER. THE TERM "ZERO DISCHARGE" DOES NOT MEAN A LESS THAN
12 DETECTABLE OUTPUT OR RELEASE.

13 S 4. This act shall take effect immediately.